Dated: February 1, 1994.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 94–2674 Filed 2–4–94; 8:45 am]

BILLING CODE 6820–AM–M

RESOLUTION TRUST CORPORATION

Legal Warrant Program

AGENCY: Resolution Trust Corporation.

ACTION: Notice of availability.

SUMMARY: The public is hereby notified that the Resolution Trust Corporation (RTC) maintains a program under which only employees designated by the RTC as "Legal Officers," who are issued a warrant, execute contracts for legal services on behalf of the RTC. A Statement of Qualifications to be, and Authority of, an RTC Warranted Legal Officer (Statement), is available for distribution to the public.

ADDRESSES: The Statement may be obtained from the RTC Public Reading Room, 801 17th Street NW., Washington, DC, phone number (202) 416–6940, fax (202) 416–2076 (These are not toll-free numbers), and from the RTC Public Service Centers: Atlanta PSC, Marquis One Tower, suite 1100, 245 Peachtree Center Avenue, NE., Atlanta, GA., phone number (404) 225–5069 or (800) 628–4362, fax (404) 225–5081; Dallas PSC, Reverchon Plaza, suite 130, 500 Maple Avenue, Dallas, TX. 75219, phone number (214) 443–4860 or (800) 782–4674, fax (214) 443–4875; Denver PSC, 1111 15th Street, suite 101, Denver, CO. 80202, phone number (303) 556–6400 or (800) 542–6135, fax (303) 556–6430; Kansas City PSC, 4900 Main Street, suite 200, Kansas City, KS. 64112, phone number (816) 968–7184 or (800) 365–3342, fax (816) 531–7251; Newport Beach PSC, 4000 MacArthur Blvd., suite 4100, West Tower, Newport Beach, CA. 92660, phone number (714) 263–4953 or (800) 283–9288, fax (714) 852–7674; and Valley Forge PSC, 1000 Adams Avenue, Norristown, PA. 19403, phone number (215) 650–8500 or (800) 782–6326, fax (215) 650–6168.

EFFECTIVE DATE: The statutory requirements described in this notice become effective on February 1, 1994.

FOR FURTHER INFORMATION CONTACT: Carl Gold, Counsel, RTC Division of Legal Services, (202) 736–0728. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Resolution Trust Corporation Completion Act (RTCCA), Public Law No. 93–204, was enacted on December 17, 1993. Section 30 of the RTCCA added a new subsection (y) to section 21A of the Federal Home Loan Bank Act, 12 U.S.C. 1441a. Section 30 of the RTCCA provides that a person may execute or modify a contract for goods or services on behalf of the RTC only if the person is a warranted contracting officer appointed by the RTC or a managing agent of a savings association under the conservatorship of the RTC. Section 30 further provides that each such person must provide appropriate certification to parties contracting with the RTC, and that each contract must contain certain notices to the other contracting party regarding the requirements for appointment as a warranted contracting officer and the nature and extent of the warranted contracting officer's or managing agent's authority. Finally, section 30 provides that any contract that fails to meet these requirements shall be null and void and shall not be enforced against the RTC or its agents by any court.

In compliance with the RTCCA, the Office of General Counsel of the RTC (also referred to as the Division of Legal Services), has developed a program for warranting employees of the Office, to be referred to herein as "Legal Officers," to execute contracts for legal services, and take related actions, on behalf of the RTC. The requirements to be a warranted Legal Officer, and the nature and extent of the contracting authority exercised by any warranted Legal Officer, are set forth in the publicly available Statement. These may be adjusted from time to time, with corresponding updating of the Statement and notice to the public.

There are five levels of Legal Officer, Level V being the highest. In brief summary, the requirements to be appointed as, and to remain, a Legal Officer are a combination of experience, training, and education. The higher the level, the more stringent the requirements, and concomitantly, the greater authority exercised.

The amounts of authority granted to each level of Legal Officer are as follows:

Level I: On a per contracting action basis, to:

a. Execute contracts with total estimated fees up to $10,000;

b. Execute task orders with total fees up to $25,000 under pre-established task order agreements;

c. Execute contract administrative changes within the scope of a contract which do not affect delivery, cost, or schedule.

Level II: On a per contracting action basis, to:

a. Execute contracts with total estimated fees (including options) up to $100,000;

b. Execute individual task orders with total estimated fees up to $200,000 under pre-established task order agreements;

c. Execute administrative changes to contracts, task order agreements, task orders, and contract modifications including changes in delivery, cost, and schedule, where the fees for the change or modification result in the modified contract not exceeding $100,000;

d. Execute contract terminations with total fees up to $100,000;

e. Execute contract claim settlements with total fees up to $10,000.

Level III: On a per contracting action basis, Level III Legal Officers have authority to:

a. Execute contracts with total estimated fees up to $250,000;

b. Execute task orders with total fees up to $500,000 under pre-established task order agreements;

c. Execute administrative changes to contracts, task order agreements, task orders, and contract modifications including changes in delivery, cost, and schedule, where the fees for the change or modification result in the modified contract not exceeding $250,000;

d. Execute contract terminations with total fees up to $250,000; and

e. Execute contract claim settlements with total fees up to $100,000.

Level IV Legal Officers in the Washington, DC office have authority, on a per contracting action basis, to:

a. Execute contracts with total estimated fees (including options) up to $2,000,000;

b. Execute individual task orders with total estimated fees up to $2,000,000;

c. Execute administrative changes to contracts, task order agreements, and task orders and contract modifications including changes in delivery, cost or schedule, where the fees for the change or modifications result in the modified contract not exceeding $2,000,000;

d. Execute contract terminations with total fees up to $1,000,000; and

e. Execute contract claim settlements with fees up to $200,000.

Level IV Legal Officers in field offices have authority, on a per contracting action basis, to:

a. Execute contracts with total estimated fees (including options) up to $1,000,000;

b. Execute individual task orders with total estimated fees up to $1,000,000;

c. Execute administrative changes to contracts, task order agreements, task orders, and contract modifications including changes in delivery, cost, and schedule, where the fees for the change

or modification result in the modified contract not exceeding $1,000,000;

d. Execute contract terminations with total fees up to $500,000; and

e. Execute contract claim settlements with total fees up to $100,000.

The Level V Legal Officer (the General Counsel of the RTC), on a per contracting action basis, has unlimited authority to:

a. Execute contracts, including task order agreements;

b. Execute task orders;

c. Execute administrative changes to contracts, task order agreements, task orders, and contract modifications thereof;

d. Execute contract terminations; and

e. Execute contract claim settlements.

Legal Officers are given a certificate of appointment, showing the level of the warrant. The certificate shall be signed by RTC's General Counsel. This certificate, or a copy, must be presented prior to executing a contract or taking one of the other actions listed above.

The public should be aware that this notice, and the referenced Statement, apply only to RTC contracts for the provision of legal services. The RTC on January 21, 1994 (59 FR 3382) issued a notice, summarizing the parameters of the correlative Warranted Contracting Officer program for contracts for non-legal services, and is making publicly available a corresponding statement of the parameters of that program.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 94-2647 Filed 2-4-94; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-33555; International Series Release No. 634; File No. SR-Amex-93-28]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to a Proposed Rule Change Relating to the Listing of Options on American Depositary Receipts

January 31, 1994.

I. Introduction

On October 12, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide for the listing and trading of options on American Depositary Receipts ("ADRs") where 50% or more of the world-wide trading volume of the underlying foreign security occurs in the U.S. ADR market.

The proposed rule change was published for comment in Securities Exchange Act Release No. 33103 (October 25, 1993), 58 FR 58357 (November 1, 1993). No comments were received on the proposed rule change.[3]

II. Description

On November 27, 1992, the Commission approved an Amex proposal to list and trade ADR options where the underlying foreign security is subject to a comprehensive surveillance sharing agreement and the underlying ADR meets or exceeds the Exchange's established uniform options listing standards.[4] First, the ADR Approval Order provides that for ADR options to be eligible for listing and continued trading, the Amex must have comprehensive surveillance sharing agreements in place with the foreign exchanges that serve as the primary markets for the foreign securities underlying the ADRs, unless the Commission otherwise approves the options' listing without an agreement. Second, the Amex's initial listing standards require that the ADRs underlying the Exchange-listed options have a "float" of 7,000,000 ADRs outstanding, 2,000 shareholders, trading volume of at least 2,400,000 over the prior twelve month period, and a minimum price of $7½ for a majority of the business days during the preceding three month period. Moreover, options on ADRs must meet or exceed the maintenance criteria for continued listing under the Amex rules. Those criteria require that the ADRs underlying Exchange-listed options maintain a "float" of 6,300,000 ADRs, 1,600 shareholders, trading volume of at least 1,800,000 over the prior twelve month period, and a minimum price of $5 on a majority of the business days during the preceding six month period. Additionally, the ADR Approval Order requires the Amex to make reasonable inquiry to evaluate the securities underlying the ADRs to ensure that these securities are generally consistent with the above-noted listing requirements.

Furthermore, the Amex options initial listing standards require that the ADR underlying an ADR option be registered and listed on a national securities exchange or traded through the facilities of a national securities association and be reported as a national market system security. The issuers of the ADRs also must be in compliance with any other applicable requirements of the Act.

The current proposal would authorize the Amex to list and trade options on ADRs where 50% or more of the world-wide trading volume in the underlying foreign security occurs in the U.S. ADR market. The proposal also provides that the percentage of the world-wide trading volume that occurs in the U.S. ADR market meet a maintenance standard of 30% for the ADR options to continue to be trading on the Exchange. Under the proposal, if the ADR options meet the above-noted criteria, the options may be listed without the existence of a surveillance sharing agreement between the Amex and the primary exchange on which the foreign securities underlying the ADRs trade.[5]

The proposal provides that to determine whether 50% or more of the world-wide trading volume in the underlying foreign security occurs in the U.S. ADR market, the Amex will calculate the trading volume for the previous three months in the related securities which can affect the pricing of the foreign security underlying the ADR option.[6] Under the proposal, the Amex

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1993).

[3] The proposal was amended on December 23, 1993 to clarify the procedure the CBOE would use to determine whether 50% or more of the world-wide trading volume of the underlying foreign security occurs in the U.S. ADR market. Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Richard Zack, Branch Chief, Office of Derivatives Regulation, Division of Market Regulation ("Division"), Commission, dated December 23, 1993 ("Amendment No. 1"). In addition, although the proposal originally contained a request to list options on ADRs representing shares of Teva Pharmaceutical Industries and YPF Sociedad Anonima, it is not necessary for the Commission to specifically approve the listing of these options. Under the current approval order, these options are eligible for listing, without further action by the Commission, if they meet Amex listing standards, as amended by this order.

[4] Securities Exchange Act Release No. 31529 (November 27, 1992), 57 FR 57248 (December 3, 1992) ("ADR Approval Order"). A comprehensive surveillance sharing agreement provides, among other things, for the exchange of market trading activity, clearing activity, and the identity of the ultimate purchaser or seller of the securities traded.

[5] Under the proposal, should the ADR option not meet this numerical standard, the Exchange could not list the ADR option unless there is a surveillance sharing agreement between the Exchange and the primary exchange on which the foreign securities underlying the ADRs trade or the Commission specifically authorized the listing. The Commission would give such authorization in the context of approving a rule filing submitted under Section 19 of the Act and Rule 19b-4, thereunder.

[6] Under the proposal, such related securities include all classes of common stock issued by the

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will determine that at least 50% of the world-wide trading volume in a particular foreign security occurs in the U.S. ADR market if the combined trading volume for ADRs overlying any class of the foreign issuer's common stock, occurring in the U.S. ADR market, is not less than 50% of the sum of (1) The combined trading volume for all classes of the foreign issuer's common stock, and (2) the combined trading volume for all ADRs overlying any of these classes of stock.[7] The above-noted calculation also will be used to determine if the trading volume in the U.S. ADR market falls below 30% of the world-wide trading volume for the underlying foreign security.[8]

The proposal also defines the U.S. ADR market as the U.S. self-regulatory organizations that are members of the Intermarket Surveillance Group ("ISG")[9] and whose markets are linked together by the Intermarket Trading System ("ITS").[10] The U.S. self-regulatory organizations that currently make up the U.S. ADR market are the Amex, the BSE, the CBOE, the CHX, the CSE, the NASD, the NYSE, the PSE, and the Phlx.[11]

III. Discussion

The Commission finds the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[12] Specifically, the Commission finds that allowing options to trade on ADRs, among other things, gives investors a better means to hedge their positions in the ADRs, as well as enhanced market timing opportunities.[13] Further, the pricing of the ADRs underlying ADR options may become more efficient and market makers in these ADRs, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets.[14] In sum, options on ADRs likely engender the same benefits to investors and the market place that exist with respect to options on common stock.[15]

The Commission also believes that it is appropriate to permit the Amex to list and trade options on ADRs given that these options will be subject to specific requirements related to the protection of investors. First, Amex rules require that the ADRs underlying these options meet the Amex's uniform options listing standards in all respects. As described above, this would include the initial and maintenance criteria. These criteria ensure, among other things, that the underlying ADRs will maintain adequate price and float to prevent the ADR options from being readily susceptible to manipulation.

Second, the ADR Approval Order requires that the Amex made a reasonable inquiry to evaluate foreign securities underlying the ADR options to ensure that these securities are generally consistent with the requirements set forth in the Exchange's options listing standards. In the ADR Approval Order, the Commission recognized that in some cases, an ADR underlying an option could meet the options listing standards while the foreign security on which the ADR is based may not meet these standards in every respect. For example, in the case of ADRs overlying certain foreign securities, one ADR could represent several shares of a specific stock. For this reason, it is possible that the price of the ADR will meet exchange listing standards even though the market price of the foreign security underlying the ADR may be less than the Amex standard. The Commission believes, however, that requiring the Amex to review the foreign securities underlying the ADR options to ensure that they are generally consistent with the Exchange's options listing standards, along with other market safeguards will adequately protect investors from the possibility that these ADR options can be potentially manipulated.[16]

Third, the Amex has in place an adequate mechanism for providing for the exchange of the surveillance information necessary to adequately detect and deter market manipulation or trading abuses involving ADR options. Although the proposal does not require the Amex to have a comprehensive surveillance sharing agreement in place with the foreign exchange on which the security underlying the ADR options trade, the Commission believes that this does not impair the ability of the Amex to detect or deter manipulation because the proposal requires that 50% or more of the trading activity in the underlying foreign securities occur in the U.S. ADR market. The Commission notes the proposal requires the U.S. self-regulatory organizations that constitute the U.S. ADR market to be members of the ISG, which will provide for the exchange of necessary surveillance

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foreign issuer and ADRs that overly any one of these classes of common stock. *See* Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Richard Zack, Branch Chief, Office of Derivatives Regulation, Division, Commission, dated January 6, 1994 ("ADR Letter").

[7] See ADR Letter, *supra* note 6, and telephone conversation between Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, and Brad Ritter, Attorney, Office of Derivatives Regulation, Division, Commission, January 27, 1994.

[8] See ADR Letter, *supra* note 6. Under this calculation, the trading volume for any U.S. ADR trading on an exchange that is not part of the U.S. ADR market will be included in the determination of world-wide trading volume, but not in the determination of U.S. ADR market trading volume. The Amex also represents that it will use its best efforts to discover all markets (foreign and U.S.) on which the foreign security (and any related securities) underlying the ADR options trades.

[9] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the Amex, the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Chicago Stock Exchange, Inc. ("CHX"), the Cincinnati Stock Exchange, Inc. ("CSE"), the National Association of Securities Dealers, Inc. ("NASD"), the New York Stock Exchange, Inc. ("NYSE"), the Pacific Stock Exchange, Inc. ("PSE"), and the Philadelphia Stock Exchange, Inc. ("Phlx").

[10] ITS is a communications system designed to facilitate trading among competing markets by providing each market with order routing capabilities based on current quotation information. The system links the participant markets and provides facilities and procedures for: (1) The display of composite quotation information at each participant market, so that brokers are able to determine readily the best bid and offer available from any participant for multiple trading securities; (2) efficient routing of orders and sending administrative messages (on the functioning of the system) to all participating markets; (3) participation, under certain conditions, by members of all participating markets in opening transactions in those markets; and (4) routing orders from a participating market to a participating market with a better price. The exchanges on which Empresas ADRs trade are ITS participant markets. The NASD's Computer Assisted Execution System links NASD market makers, for order routing and execution purposes, to ITS for ADRs.

[11] *See* ADR Letter, *supra* note 6.

[12] 15 U.S.C. 789f(b)(5) (1988).

[13] For example, if an investor wants to invest in ADRs but does not have sufficient cash available until a future date, he can purchase an ADR option now for less money and exercise the option to purchase the ADRs at a later date.

[14] See e.g. Report of the Special Study of the Options Markets to the Securities and Exchange Commission, 96th Cong., 1st sess. (Comm. Print No. 96–IFC3, December 22, 1978).

[15] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such new product is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[16] For example, we would expect the Exchange to consider delisting an option on an ADR if the price and public float of the underlying security did not meet trading or size maintenance standards, or if the security underlying the ADR failed to meet other standards that raised manipulative concerns.

information concerning trading activity in the ADR options, and the respective underlying ADR market.[17]

As a general matter, the Commission believes that the existence of a surveillance sharing agreement that effectively permits the sharing of information between an exchange proposing to list an equity option and the exchange trading the stock underlying the equity option is necessary to detect and deter market manipulation and other trading abuses. In particular, the Commission notes that surveillance sharing agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the context of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.

In the context of ADRs, the Commission believes that, in most cases, the relevant underlying equity market is the primary market on which the security underlying the ADR trades. This is because, in most cases, the market for the security underlying the ADR generally is larger in comparison to the ADR market, both in terms of share volume and the value of trading. Because of the additional leverage provided by an option on an ADR, the Commission generally believes that having a comprehensive surveillance sharing agreement in place, between the exchange where the ADR option trades and the exchange where the foreign security underlying the ADR primarily trades, will ensure the integrity of the marketplace.[18] The Commission further believes that the ability to obtain relevant surveillance information, including, among other things, the identity of the ultimate purchasers and sellers of securities, is an essential and necessary component of a comprehensive surveillance sharing agreement.

Under the current proposal, the Commission believes that it is appropriate to permit the listing of options on an ADR without the existence of a comprehensive surveillance sharing agreement with the foreign market where the underlying security traded, as long as the U.S. market for the underlying ADRs is at least as large as the market for the underlying foreign security. Specifically, the proposed listing standards require that 50% or more of the world-wide trading volume in the underlying foreign security occur in the U.S. ADR market, which consists of the Amex, the BSE, the CBOE, the CHX, the CSE, the NASD, the NYSE, the PSE, and the Phlx. The proposal further requires that for the continued trading of the ADR options the percentage of the world-wide trading volume occurring in the U.S. ADR market must not fall below 30%. The Commission believes these standards will ensure that the relevant pricing market for the options on ADRs is the U.S. ADR market rather than the foreign market where the security underlying the ADR trades.

Moreoever, the Commission believes that the proposed method for determining whether the trading volume in the U.S. ADR market meets the required percentages is adequate to ensure that the U.S. ADR market is and continues to be the price discovery market for the foreign security underlying the ADR option. Specifically, the Amex has represented that it will calculate the trading volume for the previous three months in the underlying ADR, the underlying foreign security, and other related securities which can affect the pricing of the underlying foreign security.[19] To list an ADR option without the existence of a comprehensive surveillance sharing agreement, the proposal requires the combined trading volume for ADRs overlying any class of the foreign issuer's stock, occurring in the U.S. ADR market, to be not less than 50% of the combined world-wide trading volume for all classes of the issuer's stock and all ADRs that overlie any of these classes.[20]

In summary, the Commission believes that in cases where a substantial percentage of the world-wide trading volume for the underlying ADR, the underlying foreign security, and other securities relevant to the pricing of these securities occurs in the U.S. ADR market,[21] the U.S. ADR market operates as the price discovery market for the foreign securities (*i.e.*, stocks and ADRs) underlying the ADR options. In these cases, the Commission believes that the U.S. ADR market is the instrumental market for purposes of deterring and detecting potential manipulation or other abusive trading strategies in conjunction with transactions in the overlying ADR options market. Therefore, because the Amex, and all the other U.S. self-regulatory agencies which make up the U.S. ADR market are members of the ISG, the Commission believes that there is an effective surveillance sharing arrangement to permit the exchanges and the NASD to adequately investigate any potential manipulations of the ADR options or their underlying securities.

The Commission finds good cause for approving Amendments No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 1 merely clarifies how the Amex will determine whether or not less than 50% (or less than 30%, in the case of the maintenance standard) of the world-wide trading volume in the underlying foreign security (as represented by ADRs, common stock and any other related securities) occurs in the U.S. ADR market. The Commission believes that this amendment strengthens the proposal by ensuring that the standard will be applied consistently by all the markets seeking to list ADR options and raises no new issues.

Accordingly, because the Commission believes that the amendment makes clarifying, non-substantive changes to the proposal, the Commission finds that it is consistent with Sections 19(b)(2) and 6(b)(5) of the Act[22] to approve Amendment No. 1 to the Amex's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[17] See ADR Letter, *supra* note 6.

[18] See also Securities Exchange Act Release No. 26653 (March 21, 1989), 54 FR 12705 (order approving the trading of options on the International Market Index ("TMI"), an index comprised of ADRs traded in the United States based on foreign securities). In this approval order, the Commission specifically required that there be comprehensive surveillance sharing agreements in place between the Amex and the foreign exchanges on which the securities underlying the ADRs trade so that a substantial percentage of the Index was covered by comprehensive surveillance sharing agreements.

[19] See *supra* note 6, and accompanying text.

[20] *Id.*

[21] We note that it is appropriate to view the U.S. ADR market as a single market even though it is made up of several national securities exchanges and the NASD. The Commission notes that all of the markets on which or through which these ADRs could trade are linked together by ITS. The Commission further notes that one market, the NYSE, typically operates as the primary exchange on which trades in U.S. ADRs are executed.

[22] 15 U.S.C. 78s(b)(2) and 78f(b)(5) (1988).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 28, 1994.

It is Therefore Ordered, Pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (File No. SR–Amex–93–28) is approved, effective February 7, 1994. Accordingly, the Exchange may submit listing certificates for ADR options as specified herein on February 7, 1994 pursuant to Rule 12d1–3 under the Act and commence trading in the options according to the time parameters established in the Joint Options Listing Procedures Plan.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–2718 Filed 2–4–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33554; International Series Release No. 633; File No. SR–CBOE–93–38]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving, and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 to, a Proposed Rule Change Relating to the Listing of Options on American Depositary Receipts

January 31, 1994.

I. Introduction

On September 21, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of options on American Depositary Receipts ("ADRs") where 50% or more of the world-wide trading volume of the underlying foreign security occurs in the U.S. ADR market.

The proposed rule change was published for comment in Securities Exchange Act Release No. 33102 (October 25, 1993), 58 FR 58356 (November 1, 1993). No comments were received on the proposed rule change.[3]

II. Description

On November 27, 1992, the Commission approved a CBOE proposal to list and trade ADR options where the underlying foreign security is subject to a comprehensive surveillance sharing agreement and the underlying ADR meets or exceeds the Exchange's established uniform options listing standards.[4] First, the ADR Approval Order provides that for ADR options to be eligible for listing and continued trading, the CBOE must have comprehensive surveillance sharing agreements in place with the foreign exchanges that serve as the primary markets for the foreign securities underlying the ADRs, unless the Commission otherwise approves the options, listing without an agreement. Second, the CBOE's initial listing standards require that the ADRs underlying the Exchange-listed options have a "float" of 7,000,000 ADRs outstanding, 2,000 shareholders, trading volume of at least 2,400,000 over the prior twelve month period, and a minimum price of $7½ for a majority of the business days during the preceding three month period. Moreover, options on ADRs must meet or exceed the maintenance criteria for continued listing under the CBOE rules. Those criteria require that the ADRs underlying Exchange-listed options maintain a "float" of 6,300,000 ADRs, 1,600 shareholders, trading volume of at least 1,800,000 over the prior twelve month period, and a minimum price of $5 on a majority of the business days during the preceding six month period. Additionally, the ADR Approval Order requires the CBOE to make reasonable inquiry to evaluate the securities underlying the ADRs to ensure that these securities are generally consistent with the above-noted listing requirements.

Furthermore, the CBOE options initial listing standards require that the ADR underlying an ADR option be registered and listed on a national securities exchange or traded through the facilities of a national securities association and be reported as a national market system security. The issuers of the ADRs also must be in compliance with any other applicable requirements of the Act.

The current proposal would authorize the CBOE to list and trade options on ADRs where 50% or more of the world-wide trading volume in the underlying foreign security occurs in the U.S. ADR market. The proposal also provides that the percentage of the world-wide trading volume that occurs in the U.S. ADR market meet a maintenance standard of 30% for the ADR options to continue to be trading on the Exchange. Under the proposal, if the ADR options meet the above-noted criteria, the options may be listed without the existence of a surveillance sharing agreement between the CBOE and the primary exchange on which the foreign securities underlying the ADRs trade.[5]

The proposal provides that to determine whether 50% or more of the world-wide trading volume in the underlying foreign security occurs in the U.S. ADR market, the CBOE will calculate the trading volume for the previous three months in the related securities which can affect the pricing of the foreign security underlying the ADR option.[6] Under the proposal, the CBOE will determine that at least 50% of the world-wide trading volume in a particular foreign security occurs in the

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[23] 15 U.S.C. 78s(b)(2) (1988).

[24] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] Two amendments were made to the proposal. First, the proposal was amended on October 25, 1993 to delete a sentence from the proposed rule that defined an "effective surveillance agreement" as an agreement that meets the standards for effectiveness established by the Commission. Letter from William J. Barclay, Vice President, Strategic Planning and International Development, CBOE, to Richard L. Zack, Branch Chief, Office of Derivatives Regulation, Division of Market Regulation ("Division"), Commission, dated October 25, 1993 ("Amendment No. 1"). Second, the proposal was amended on January 26, 1994 to clarify the procedure the CBOE would use to determine whether the 50% of the world-wide trading volume of the underlying foreign security occurs in the U.S. ADR market. Letter from Richard G. DuFour, Executive Vice President, CBOE, to Richard L. Zack, Branch Chief, Office of Derivatives Regulation, Division, Commission, dated January 26, 1994 ("Amendment No. 2").

[4] Securities Exchange Act Release No. 31531 (November 27, 1992), 57 FR 57250 (December 3, 1992) ("ADR Approval Order"). A comprehensive surveillance sharing agreement provides, among other things, for the exchange of market trading activity, clearing activity, and the identity of the ultimate purchaser or seller of the securities traded.

[5] Under the proposal, should the ADR option not meet this numerical standard, the Exchange could not list the ADR option unless there is a surveillance sharing agreement between the Exchange and the primary exchange on which the foreign securities underlying the ADRs trade or the Commission specifically authorized the listing. The Commission would give such authorization in the context of approving a rule filing submitted under Section 19 of the Act and Rule 19b–4, thereunder.

[6] Under the proposal, such related securities include all classes of common stock issued by the foreign issuer and ADRs that overlie any one of these classes of common stock. *See* letter from Richard G. DuFour, Executive Vice President, CBOE, to Richard L. Zack, Branch Chief, Office of Derivatives Regulation, Division, Commission, dated January 26, 1994 ("ADR Letter").